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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 3738

Confirmation No.: 9094

Application No.: 10/044,031

Invention: **Purified Submucosa Graft Material**

Applicant: Stephen F. Badylak

Filed: January 11, 2002

Attorney
Docket: 3220-69262

Examiner: Unknown

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231.

on May 30, 2002.

Barb L Ferguson
(Signature)

Garda L. Twyman
(Printed Name)

PETITION UNDER 37 C.F.R. §1.47(a)

RECEIVED

JUN 14 2002

OFFICE OF PETITIONS

**Director of United States Patent
and Trademark Office
Washington, D.C. 20231**

Sir:

The captioned application was filed on January 11, 2002, with an unsigned Declaration naming Stephen F. Badylak, Michael C. Hiles, and Steve A. Kahn as co-inventors. The claims of the captioned application are copied substantially from the claims of U.S. Patent No. 6,206,931, assigned to Cook Inc., Cook Biotech, Inc., and Med Institute, Inc. The subject matter of the present claims is based on research conducted at Purdue University. One of the named co-inventors of the captioned application, Michael C. Hiles, a former employee of Purdue University, and on information and belief, presently an employee of Cook Biotech, Inc., is a named co-inventor in U.S. Patent No. 6,206,931 (from which claims were copied for the above-

captioned application).

Regin. Ref: 06/12/2002 HNCBDF1 011832/300
DGR:100435 4338/100540.

On February 8, 2002, Applicants' undersigned attorney received a Notice to File Missing Parts of Nonprovisional Application for the captioned application, said notice requesting the submission of an executed Declaration. On February 22, 2002, Applicants' undersigned attorney mailed a letter transmitting a copy of the captioned application and a copy of the unsigned Declaration for signature and return. The application and signature copy of the Declaration for Michael C. Hiles was sent to Kenneth Gandy, Esquire, known to be patent counsel representing Cook Biotech, Inc., the employer of Michael C. Hiles and one of the co-assignees of U.S. Patent No. 6,206,931 from which claims of the captioned application were copied. A copy of the letter to Kenneth Gandy is attached as Exhibit A.

Another copy of that letter was sent to Kenneth Gandy on March 20, 2002 (copy attached as Exhibit B). Thus, a bona fide attempt was made to present a copy of the captioned application and a signature copy of the Declaration to inventor Michael C. Hiles. To date, Applicants' undersigned attorney has not received the signed Declaration from Michael C. Hiles; nor does the undersigned attorney expect to receive the signed Declaration from inventor Hiles.

On March 14, 2002, Cook Group, Inc., on information and belief a parent corporation of the co-assignees of U.S. Patent No. 6,206,931, filed suit against Purdue Research Foundation in the U.S. District Court for the Southern District of Indiana (Indianapolis), Docket: IP 02-0406 C. Count III of the Complaint relates to the inventorship of U.S. Patent No. 6,206,931. A copy of the relevant portions of the Complaint are attached as Exhibit C.

With view of the filing of the lawsuit by Cook Group, Inc., the undersigned attorney does not expect cooperation from inventor Hiles to execute the tendered Declaration for the captioned application. Accordingly, co-inventor/co-applicants Stephen F. Badylak and Steve A. Kahn hereby petition the Commissioner under 37 C.F.R. § 1.47(a) to proceed with the

prosecution of the captioned application on behalf of them and non-cooperative co-inventor

Michael C. Hiles. The last known address of each of the co-inventors is as follows:

Steve A. Kahn
1305 E. Washington
South Bend, Indiana 46617

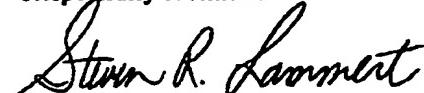
Stephen F. Badylak
1150 Kingswood Rd., South
West Lafayette, Indiana 47906

Michael C. Hiles
4326 S. 900 East
Lafayette, Indiana 47905

A check in the amount of \$130 in payment of the petition fee under 37 C.F.R.

§1.17(h) is enclosed. The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to our Deposit Account No. 10-0435, with reference to our matter 3220-69262. A duplicate copy of this paper is enclosed.

Respectfully submitted



Steven R. Lammert
Registration No. 27,653
Attorney for Applicants

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